

PART IV
SECTION—1-B
CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW10 LCA 76.

Bangalore, dated 3rd April 1976.

Ordered that the Sales Promotion Employees (Condition of Service) Act, 1976 published in Part II, Section 1 of the Gazette of India, Extraordinary, dated 25th January 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

Under Secretary to Government,

2 *Department of Law and Parliamentary Affairs.*

THE SALES PROMOTION EMPLOYEES (CONDITIONS OF SERVICE) ACT, 1976

Assented to on 25th January 1976 as Act No. 11 of 1976.

An

Act

to regulate certain conditions of services of sales promotion employees in certain establishments

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

1. Short title extent, commencement and application,— (1) This Act may be called the Sales Promotion Employees (Conditions of Service) Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

(4) It shall apply in the first instance to every establishment engaged in pharmaceutical industry

(5) The Central Government may, by notification in the Official Gazette, apply the provisions of this Act, with effect from such date as may be specified in the notification, to any other establishment engaged in any notified industry.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “establishment” means an establishment engaged in pharmaceutical industry or in any notified industry;

(b) “notified industry” means an industry declared as such under section 3;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “sales promotion employee” means any person by whatever name (called including an apprentice) employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both, and—

(i) who draws wages (being wages, not including any commission) not exceeding seven hundred and fifty rupees per mensem; or

(ii) who had drawn wages (being wages, including commission), or commission only, in either case, not exceeding nine thousand rupees in the aggregate in the twelve months immediately preceding the month in which this Act applies to such establishment and continues to draw such wages or commission, in the aggregate, not exceeding the amount aforesaid in a year,

but does not include any such person who is employed or engaged mainly in a managerial or administrative capacity;

(e) all words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947, (14 of 1947), shall have the meanings respectively assigned to them in that Act.

3. Power of Central Government to declare certain industries to be notified industries.—The Central Government may, having regard to the nature of any industry (not being pharmaceutical industry), the number of employees employed in such industry to do any work relating to promotion of sales or business or both, the conditions of service of such employees and such other factors which, in the opinion of the Central Government, are relevant, declare such industry to be a notified industry for the purposes of this Act.

4. Leave.—In addition to such holidays, casual leave or other kinds of leave as may be prescribed, every sales promotion employee drawing wages (being wages, not including any commission) shall be granted, if so requested for—

(a) earned leave on full wages for not less than one-eleventh of the period spent on duty ;

(b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service.

5. Issue of appointment letter.—Every employer in relation to a sales promotion employee shall furnish to such employee a letter of appointment, in such form as may be prescribed,—

(a) in a case where he holds appointment as such at the commencement of this Act, within three months of such commencement ; and

(b) in any other case, on his appointment as such.

6. Application of certain Acts to sales promotion Employees.—(1) The provisions of the Workmen's Compensation Act, 1923 (8 of 1923), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, workmen within the meaning of that Act.

(2) The provisions of the Industrial Disputes Act, 1947 (14 of 1947), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, workmen within the meaning of that Act and for the purposes of any proceeding under that Act in relation to an industrial dispute, a sales promotion employee shall be deemed to include a sales promotion employee who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute or whose dismissal, discharge or retrenchment had led to that dispute.

(3) The provisions of the Minimum Wages Act, 1948 (11 of 1948), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, employees within the meaning of that Act.

(4) The provisions of the Maternity Benefit Act, 1961 (53 of 1961), as in force for the time being shall apply to, or in relation to, sales promotion employees, being women, as they apply to, or in relation to, women employed, whether directly or through any agency, for wages in any establishment within the meaning of that Act.

(5) The provisions of the Payment of Bonus Act, 1965 (21 of 1965), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, employees within the meaning of that Act.

(6) The provisions of the Payment of Gratuity Act, 1972 (39 of 1972), as in force for the time being, shall apply to, or in relation to, sales promotion employees as they apply to, or in relation to, employees within the meaning of that Act.

7. Maintenance of registers.—Every employer in relation to an establishment shall keep and maintain such registers and other documents and in such manner as may be prescribed.

8. Inspectors.—(1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits within which they shall exercise their functions.

(2) Any Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Act have been complied with in respect of an establishment,—

(a) require an employer to furnish such information as he may consider necessary;

(b) at any reasonable time enter the establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any registers and other documents relating to the employment of sales promotion employees;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been a sales promotion employee in the establishment;

(d) make copies of or take extracts from any register or other documents maintained in relation to the establishment under this Act;

(e) exercise such other powers as may be prescribed;

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

(4) Any person required to produce any register or other document or to give information by an Inspector under sub-section (2) shall be legally bound to do so.

9. Penalty.—If any employer contravenes the provisions of section 4 or section 5 or section 7 or any rules made under this Act, he shall be punishable with fine which may extend to one thousand rupees.

10. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this section, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other Officer shall also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”. in relation to a firm, means a partner in the firm.

11. Cognizance of offences.—(1) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

(2) No court shall take cognizance of an offence under this Act, unless the complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

12. Power to make Rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the kinds of leave that may be granted to a salaried employee under section 4;

(b) the form of the letter of appointment to be furnished under section 5;

(c) the registers and other documents to be kept and maintained under section 7 and the manner in which such registers and other documents may be kept and maintained;

(d) any other matter which has to be, or may be prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
